

106TH CONGRESS  
1ST SESSION

# H. R. 845

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require a health insurance issuer to notify participants and beneficiaries of impending termination of coverage resulting from the failure of a group health plan to pay premiums necessary to maintain coverage, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1999

Mrs. THURMAN (for herself, Mr. STARK, Mr. YOUNG of Florida, Mr. KUCINICH, Mr. WAXMAN, and Mr. DAVIS of Florida) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require a health insurance issuer to notify participants and beneficiaries of impending termination of coverage resulting from the failure of a group health plan to pay premiums necessary to maintain coverage, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Beneficiary Health  
3 Coverage Notification Rights Act of 1999”.

4 **SEC. 2. NOTIFICATION OF DISCONTINUATION OF HEALTH**  
5 **INSURANCE COVERAGE TO PARTICIPANTS**  
6 **AND BENEFICIARIES.**

7 (a) GROUP HEALTH PLANS.—

8 (1) PUBLIC HEALTH SERVICE ACT AMEND-  
9 MENT.—(A) Subpart 2 of part A of title XXVII of  
10 the Public Health Service Act is amended by adding  
11 at the end the following new section:

12 **“SEC. 2707. PROHIBITION OF RETROACTIVE TERMINATION;**  
13 **ADVANCE NOTIFICATION OF DISCONTINU-**  
14 **ATION OF HEALTH INSURANCE COVERAGE**  
15 **TO PARTICIPANTS AND BENEFICIARIES.**

16 “A health insurance issuer offering group health in-  
17 surance coverage in connection with a group health plan  
18 may not terminate the coverage with respect to the plan  
19 (or allow the coverage to lapse) because the plan failed  
20 to pay to the issuer premiums necessary to maintain the  
21 coverage unless the issuer, at least 30 days before the ef-  
22 fective date of termination or lapse of the coverage, pro-  
23 vides written notice to each participant or beneficiary  
24 whose coverage would so terminate or lapse, indicating the  
25 fact and effective date of such termination or lapse of cov-  
26 erage.”.

1 (B) Section 2723(c) of such Act (42 U.S.C.  
 2 300gg-23(c)) is amended by striking “section 2704”  
 3 and inserting “sections 2704 and 2707”.

4 (2) ERISA AMENDMENT.—(A) Subpart B of  
 5 part 7 of subtitle B of title I of the Employee Re-  
 6 tirement Income Security Act of 1974 is amended by  
 7 adding at the end the following new section:

8 **“SEC. 714. PROHIBITION OF RETROACTIVE TERMINATION;**  
 9 **ADVANCE NOTIFICATION OF DISCONTINU-**  
 10 **ATION OF HEALTH INSURANCE COVERAGE**  
 11 **TO PARTICIPANTS AND BENEFICIARIES.**

12 “A health insurance issuer offering group health in-  
 13 surance coverage in connection with a group health plan  
 14 may not terminate the coverage with respect to the plan  
 15 (or allow the coverage to lapse) because the plan failed  
 16 to pay to the issuer premiums necessary to maintain the  
 17 coverage unless the issuer, at least 30 days before the ef-  
 18 fective date of termination or lapse of the coverage, pro-  
 19 vides written notice to each participant or beneficiary  
 20 whose coverage would so terminate or lapse, indicating the  
 21 fact and effective date of such termination or lapse of cov-  
 22 erage.”.

23 (B) Section 732(a) of such Act (29 U.S.C.  
 24 1191a(a)) is amended by striking “section 711” and  
 25 inserting “sections 711 and 714”.

1 (C) The table of contents in section 1 of such  
 2 Act is amended by inserting after the item relating  
 3 to section 713 the following new item:

“Sec. 714. Prohibition of retroactive termination; advance notification of discontinuation of health insurance coverage to participants and beneficiaries.”.

4 (b) EFFECTIVE DATE.—The amendments made by  
 5 subsection (a) apply with respect to terminations and  
 6 lapses of coverage occurring on or after the first day of  
 7 the first month that begins more than 60 days after the  
 8 date of the enactment of this Act, regardless of the effective date of such terminations and lapses, but do not apply  
 10 to terminations and lapses for which notice has been provided before such first day.

12 **SEC. 3. DEEMING PERIOD OF HEALTH INSURANCE CO-**  
 13 **VERAGE FOR PARTICIPANTS AND BENE-**  
 14 **FICIARIES BETWEEN DISCONTINUATION AND**  
 15 **NOTICE OF DISCONTINUATION OF COV-**  
 16 **ERAGE.**

17 (a) GROUP HEALTH PLANS.—

18 (1) PUBLIC HEALTH SERVICE ACT AMEND-  
 19 MENTS.—

20 (A) Section 2701(c) of the Public Health  
 21 Service Act (42 U.S.C. 300gg(c)) is amended  
 22 by adding at the end the following new para-  
 23 graph:

1           “(5) DEEMING PERIOD OF COVERAGE FOR PAR-  
2           TICIPANTS AND BENEFICIARIES BETWEEN DIS-  
3           CONTINUATION AND NOTICE OF DISCONTINUATION  
4           OF COVERAGE.—

5           “(A) IN GENERAL.—If—

6                   “(i)(I) a health insurance issuer offer-  
7                   ing group health insurance coverage in  
8                   connection with a group health plan termi-  
9                   nates the coverage with respect to the plan  
10                  (or allows the coverage to lapse), or (II)  
11                  coverage under a group health plan is ter-  
12                  minated; and

13                  “(ii) a participant or beneficiary  
14                  whose coverage is so terminated or lapsed  
15                  only receives notice of such termination or  
16                  lapse after the date that the termination or  
17                  lapse takes effect,

18                  for the purposes described in subparagraph (B),  
19                  such individual shall be treated as being covered  
20                  under the terminated or lapsed group health in-  
21                  surance coverage or group health plan during  
22                  the deeming period, as defined in subparagraph  
23                  (C).

24           “(B) APPLICATION.—Subparagraph (A)  
25           shall apply—

1 “(i) for purposes of this part (includ-  
2 ing for purposes of reducing pre-existing  
3 condition exclusion periods and avoiding a  
4 significant break in coverage); and

5 “(ii) for purposes of applying any  
6 State law that provides for a conversion or  
7 any other health insurance option based on  
8 (or taking into account) loss of group  
9 health insurance coverage or loss of cov-  
10 erage under a group health plan.

11 “(C) DEEMING PERIOD DEFINED.—For  
12 purposes of this paragraph, the term ‘deeming  
13 period’ is the period beginning on the effective  
14 date of the termination or lapse of coverage de-  
15 scribed in subparagraph (A)(i) and ending on  
16 the date on which the participant or beneficiary  
17 receives notice described in subparagraph  
18 (A)(ii).

19 “(D) NO ENTITLEMENT TO BENEFITS  
20 DURING DEEMING PERIOD.—Nothing in this  
21 paragraph shall be construed as entitling any  
22 individual to any benefits under the plan or cov-  
23 erage during the deeming period.”.

24 (B) Section 2701(f)(1)(D) of such Act (42  
25 U.S.C. 300gg(f)(1)(D)) is amended by inserting

1 before the period “or if later, the date the em-  
2 ployee is notified of such termination”.

3 (2) ERISA AMENDMENTS.—

4 (A) Section 701(c) of the Employee Retire-  
5 ment Income Security Act of 1974 (29 U.S.C.  
6 1181(c)) is amended by adding at the end the  
7 following new paragraph:

8 “(5) DEEMING PERIOD OF COVERAGE FOR PAR-  
9 TICIPANTS AND BENEFICIARIES BETWEEN DIS-  
10 CONTINUATION AND NOTICE OF DISCONTINUATION  
11 OF COVERAGE.—

12 “(A) IN GENERAL.—If—

13 “(i)(I) a health insurance issuer offer-  
14 ing group health insurance coverage in  
15 connection with a group health plan termi-  
16 nates the coverage with respect to the plan  
17 (or allows the coverage to lapse), or (II)  
18 coverage under a group health plan is ter-  
19 minated; and

20 “(ii) a participant or beneficiary  
21 whose coverage is so terminated or lapsed  
22 only receives notice of such termination or  
23 lapse after the date that the termination or  
24 lapse takes effect,

1 for the purposes described in subparagraph (B),  
2 such individual shall be treated as being covered  
3 under the terminated or lapsed group health in-  
4 surance coverage or group health plan during  
5 the deeming period, as defined in subparagraph  
6 (C).

7 “(B) APPLICATION.—Subparagraph (A)  
8 shall apply for purposes of this part (including  
9 for purposes of reducing pre-existing condition  
10 exclusion periods and avoiding a significant  
11 break in coverage).

12 “(C) DEEMING PERIOD DEFINED.—For  
13 purposes of this paragraph, the term ‘deeming  
14 period’ is the period beginning on the effective  
15 date of the termination or lapse of coverage de-  
16 scribed in subparagraph (A)(i) and ending on  
17 the date on which the participant or beneficiary  
18 receives notice described in subparagraph  
19 (A)(ii).

20 “(D) NO ENTITLEMENT TO BENEFITS  
21 DURING DEEMING PERIOD.—Nothing in this  
22 paragraph shall be construed as entitling any  
23 individual to any benefits under the plan or cov-  
24 erage during the deeming period.”.



1 (B) Section 701(f)(1)(D) of such Act (29  
2 U.S.C. 1181(f)(1)(D)) is amended by inserting  
3 before the period “or if later, the date the em-  
4 ployee is notified of such termination”.

5 (3) INTERNAL REVENUE CODE AMEND-  
6 MENTS.—Section 9801(c) of the Internal Revenue  
7 Code of 1986 is amended by adding at the end the  
8 following new paragraph:

9 “(5) DEEMING PERIOD OF COVERAGE FOR PAR-  
10 TICIPANTS AND BENEFICIARIES BETWEEN DIS-  
11 CONTINUATION AND NOTICE OF DISCONTINUATION  
12 OF COVERAGE.—

13 “(A) IN GENERAL.—If—

14 “(i)(I) a health insurance issuer offer-  
15 ing group health insurance coverage in  
16 connection with a group health plan termi-  
17 nates the coverage with respect to the plan  
18 (or allows the coverage to lapse), or (II)  
19 coverage under a group health plan is ter-  
20 minated; and

21 “(ii) a participant or beneficiary  
22 whose coverage is so terminated or lapsed  
23 only receives notice of such termination or  
24 lapse after the date that the termination or  
25 lapse takes effect,

1 for the purposes described in subparagraph (B),  
2 such individual shall be treated as being covered  
3 under the terminated or lapsed group health in-  
4 surance coverage or group health plan during  
5 the deeming period, as defined in subparagraph  
6 (C).

7 “(B) APPLICATION.—Subparagraph (A)  
8 shall apply for purposes of this part (including  
9 for purposes of reducing pre-existing condition  
10 exclusion periods and avoiding a significant  
11 break in coverage).

12 “(C) DEEMING PERIOD DEFINED.—For  
13 purposes of this paragraph, the term ‘deeming  
14 period’ is the period beginning on the effective  
15 date of the termination or lapse of coverage de-  
16 scribed in subparagraph (A)(i) and ending on  
17 the date on which the participant or beneficiary  
18 receives notice described in subparagraph  
19 (A)(ii).

20 “(D) NO ENTITLEMENT TO BENEFITS  
21 DURING DEEMING PERIOD.—Nothing in this  
22 paragraph shall be construed as entitling any  
23 individual to any benefits under the plan or cov-  
24 erage during the deeming period.”.

1 (B) Section 9801(f)(1)(D) of such Code is  
2 amended by inserting before the period “or if  
3 later, the date the employee is notified of such  
4 termination”.

5 (b) EFFECTIVE DATE.—The amendments made by  
6 subsection (a) apply with respect to terminations and  
7 lapses of coverage occurring on or after the first day of  
8 the first month that begins after the date of the enactment  
9 of this Act, regardless of the effective date of such termi-  
10 nations and lapses, but do not apply to terminations and  
11 lapses for which notice has been provided before such first  
12 day.

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